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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David L. Thompson	Examiner:	D. Robinson
Serial No.	10/087,949	Group Art Unit:	3742
Filing Date:	February 28, 2002	Docket No.:	P10393.00
Title:	SYSTEM AND METHOD OF POSITIONING IMPLANTABLE MEDICAL DEVICES		

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully traverses the Examiner's restriction requirement. As required, Applicant elects Group I, as defined by the Examiner to include claims 1-5.

The Examiner is apparently interpreting the rules regarding restriction to preclude an Applicant from having independent claims of differencing scope present in a common application. This is completely improper; the restriction requirement should be, at the very least, modified; and claims 1-12 should all be examined in this application.

First, the Examiner has misconstrued the application of combination/subcombination restrictions. A combination would be, for example, claims directed to an engine and a particular carburetor. The subcombination would be claims directed to the particular carburetor alone. Restriction would be proper only if the engine were novel for reasons other than the carburetor and the carburetor were useful in other combinations.

Selectively isolating words from a preamble and drawing arbitrary distinctions not only improperly implies meanings and definitions to those terms not necessarily intended by Applicant, it completely fails to provide a proper basis

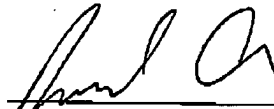
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for restriction. The Examiner has deemed claim 1, which begins a "system for guiding" as a combination while claim 6, which begins a "lead navigation... system" a subcombination. Claim 1 does not preclude use of the system to deliver a lead; a lead is certainly one example of an implantable medical device. Furthermore, the "combination," contrary to the Examiner's assertion includes a "sensing device to sense the infrared light."

Thus, the Examiner's restriction requirement is not supportable. Applicant respectfully requests the examination of claims 1-12.

Respectfully submitted,

7/7/04
Date


Daniel G. Chapik
Reg. No. 43,424
(763) 514-3066
Customer No. 27581